



# **ARIZONA DEPARTMENT OF ADMINISTRATION**

## **Enterprise Procurement Services**

### **STATE SET-ASIDE OR 2636 PROCUREMENT PROGRAM**

### **POLICY AND PROCEDURE #14**

### **ARTICLE 10, §A.R.S. 41-2636 and Applicable**

### **Administrative rules of the Arizona Procurement Code**

A.R.S. §41-2636 Paragraph (E) 1

*"All state governmental units shall endeavor to set aside at least one per cent of their new purchases or contracts for any products, materials and services from the entities that are prescribed in subsection (D) of this section". Entities prescribed in subsection D: AIB, C-NADI & ACI*

This is not intended or represented to be the official record of laws and regulations covered under A.R.S. 41-2636 and applicable administrative rules. In the event of a discrepancy between these procedures and applicable statute and rule, statute and rule shall prevail.

## **I. Introduction:**

Created by statute A.R.S. §41-2636 "Procurement from Arizona Industries for the Blind, Certified Nonprofit Agencies for Disabled Individuals and Arizona Correctional Industries" the State Set-Aside or 2636 Procurement Program provides a means for State Governmental Units and Local Public Procurement Units to purchase through an alternate source selection/contract method, those materials and services provided, manufactured, produced and offered for sale by Arizona Industries for the Blind (AIB) Certified Nonprofit Agencies for Disabled Individuals (C-NADI) and Arizona Correctional Industries (ACI) that satisfy the requirements of those State Governmental Units (A.R.S. §41-2636 .E. 1.):

*"All state governmental units shall endeavor to set aside at least one per cent of their new purchases or contracts for any products, materials and services from the entities that are prescribed in subsection (D) of this section".* Entities prescribed in subsection D are: AIB, C-NADI & ACI

The purpose of this policy and procedure is to define the roles and responsibilities for using the set-aside or 2636 procurement program.

## **II. Authority:**

§A.R.S. 41-2636 Procurement from Arizona industries for the blind, certified nonprofit agencies for disabled individuals and Arizona correctional industries.

## **III. Definitions:**

- 1 ACI: Arizona Correctional Industries.
- 2 AIB: Arizona Industries for the Blind.
- 3 APC: Arizona Procurement Code.
- 4 C-NADI: Certified Nonprofit Agencies for Disabled Individuals.
- 5 EPS: Enterprise Procurement Services (formerly State Procurement)

- 6 Local Public Procurement Units: Any political subdivision, any agency, board, department or other instrumentality of such political subdivision and any nonprofit corporation created solely for the purpose of administering a cooperative purchase under chapter 23 article 10 of the APC.
- 7 NADI: Nonprofit Agency for Disabled Individuals; A nonprofit activity center or sheltered workshop that employs disabled individuals. (A.R.S. §41-2636 paragraph G).
- 8 SCC: Strategic Contracting Center.
- 9 SPIRIT Web-Site: [www.azeps.az.gov](http://www.azeps.az.gov)
- 10 State Governmental Units: Any department, commission council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of this State.
- 11 VIP: Value In Procurement Program (Executive Order 2005-01)
- 12 2636 Committee: Program committee appointed by the Director of ADOA (R2-7-1003).
- 13 2636 Procurement Program: State of Arizona Program for procurement of materials and services from AIB, C-NADI & ACI. (A.R.S §41-2636 and A.A.C. R2-7-1003 through A.A.C. R2-7-1011).
- 14 2636 Program Providers: AIB, C-NADI, ACI.

#### **IV. 2636 Committee:**

Serving at the pleasure of the Director of the Arizona Department of Administration, the 2636 Committee shall be responsible for the review and certification of NADI applicants, oversight of the 2636 Procurement Program, awarding of Arizona VIP 2636 contracts and the monitoring and reporting program participation.

**V. Certification of Non-Profit Agencies for Disabled Individuals:** (A.A.C. R2-7-1004 & R2-7-1005)

Nonprofit Agencies for Disabled Individuals (NADI) may apply for State certification by completing and submitting a C-NADI application with supplements (see attachment No. 1). Applications shall be submitted to Enterprise Procurement Services Office, 100 North 15<sup>th</sup> Ave. Phoenix, Arizona 85007, Suite 104, attention 2636 Committee Chair.

1 Application Supplements: Applications shall be supplemented with:

1.1 A description of the non-profit activity center (brochure information);

1.2 Evidence of the organizations non-profit status;

1.3 A statement that the business is operated in accordance with A.R.S. 41-2636 (F);

1.4 A statement of Occupational Safety and Health Administration compliance;

1.5 A listing of offered materials, products or services;

1.6 Capabilities (i.e. Type and size of contracts the organization may perform); and

1.7 Geographic delivery and/or servicing areas (i.e. statewide, by county, city or town)

2 Application Review: Applications shall be placed on the 2636 set-aside meeting agenda.

The committee shall:

2.1 Review applications and supplements;

2.2 Discuss areas of concern (for clarification purposes);

2.3 Vote by majority to:

2.3.1 Approve and certify applicant as a C-NADI;

2.3.2 Deny the request; or

2.3.3 Table the application and request additional information;

- 3 Upon committee approval the 2636 Committee chair shall sign the a C-NADI application form; provide a copy to the applicant; file the original (with supplements) in the State set-aside 2636 Procurement Program file; and forward the C-NADI profile information to the EPS Automation Unit for posting on the State's SPIRIT web-site.

## **VI. 2636 Procurement Programs:**

State Governmental Units and Local Public Procurement Units shall utilize the following 2636 procurement programs to the extent practicable:

- 1 Arizona SCC 2636 Contracts: Section VII.
- 2 Direct Purchases: Section VIII.

## **VII. Arizona SCC 2636 Contracts: (R2-7-1006 & R2-7-1007)**

AIB, C-NADI & ACI may apply to have products or services approved for mandatory "set-aside use" under Arizona SCC 2636 contracts by completing and submitting an Arizona SCC contract application with supplements (see attachment No. 2). Applications shall be submitted to Enterprise Procurement Services Office, 100 North 15<sup>th</sup> Ave. Phoenix, Arizona 85007, Suite 104, attention 2636 Committee Chair.

- 1 Contract Application Supplements: Applications shall be supplemented with:
  - 1.1 A description of the specific material or services proposed (i.e. product descriptions, specifications, part numbers and for services, the type and scope of work of the proposed services);

1.2 Data substantiating that the quality of the material or services being proposed are substantially equivalent to those from the private sector;

1.3 The pricing being offered;

1.4 Documentation to substantiate that pricing offered is fair and reasonable (i.e. price comparison data showing pricing offered is reasonably comparable to the price for a substantially similar material or services available from the private sector);

1.5 Information regarding availability (i.e. delivery and/or service schedules);

1.6 Proposed geographic coverage and/or service areas (i.e. regional or statewide);

1.7 Data supporting the applicants ability to meet customer needs (i.e. production or service capacities); and

1.8 A Statement of understanding that the applicant will comply with the State's Uniform Terms and Conditions and all Special Terms and Conditions required to create a mutually agreeable and binding contract.

2 Contract Application Review: Applications shall be placed on the 2636 set-aside meeting agenda. The committee shall:

2.1 Review contract applications and supplements;

2.2 Discuss areas of concern (for clarification purposes);

2.3 Determine the existence and need within State Governmental Units for the materials or services;

2.4 Determine the applicants ability to produce and deliver the material or services to meet the reasonable requirements of the State Governmental Units; and

2.5 Determine whether the offered price for the material or service is reasonable.

3 Committee Disposition: The committee may, by majority vote:

3.1 Approve the requested materials or service for use as a mandatory set-aside contract;

3.2 Establish a subcommittee to study and make a recommendation of the request;

3.3 Table the application and request additional information;

3.4 Deny the request; or

3.5 Designate the material or service as available for optional use by a State Governmental Unit or Local Public Procurement Unit under A.R.S. 41-2636 (D).

4 Contract approval: Upon committee approval the 2636 Committee chair shall sign the contract application form; provide a copy to the applicant; file the original (with supplements) in the State set-aside 2636 Procurement Program file; and forward the contract application information to designated purchasing staff to create the contract document and to post on the State's SPIRIT web-site. The contract document should, at a minimum contain:

4.1 All relevant contract information, inclusive of but not limited to uniform terms and conditions, special terms and conditions, scope of work and/or specifications, insurance requirements, products and/or services covered and pricing;

4.2 The term of the contract and extension options;

4.3 Geographic coverage area(s), (statewide, regional, etc);

4.4 A quarterly contract usage reporting requirement; and

4.5 Signatures or conformation by the contracted parties through the SPIRIT e-procurement system.

5 Contract Use: Contract customers shall make 2636 purchases in accordance with the terms and conditions and specifications contained in the contract.

6 Contract Extensions: Contract extensions may be authorized by the 2636 committee following analysis of usage, contract performance, price and other relevant factors (see R2-7-1007 (B)).

### **VIII. 2636 Direct Purchases of products, materials and services:**

A.R.S. §41-2636, paragraph "D" states: Notwithstanding the requirements of section 41-2532 (Methods of source selection), State Governmental Units and Local Public Procurement Units may purchase or contract for any products materials and services directly from AIB, C-NADI and ACI (2636 program providers) without competitive bidding if the delivery and quality of the products, materials or services meet the unit's reasonable requirements.

1 State Governmental Units and Local Public Procurement Units electing to utilize this purchasing method shall employ appropriate diligence to ensure:

1.1 That the material or service is not directly covered under an existing State contract.

1.2 That the material or service can meet their reasonable needs;

1.3 That the 2636 program provider has sufficient capacity to serve the unit; and

1.4 That the price for the product, materials or services is fair and reasonable before initiating a direct purchase. The total value of the purchase may be a factor in determining the level of diligence employed. For example; a State Governmental Unit or Local Public Procurement Unit may benefit more by performing extensive cost or price analysis on a \$50,000.00 purchase than it would on a \$1,000.00 purchase. and



1.5 That the total amount of the purchase, including any options to extend is within the State Governmental Unit or Local Public Procurement Unit's delegated purchasing authority.

- 2 State Governmental Units and Local Public Procurement Units may also negotiate terms, conditions, specifications, and pricing in order to achieve a fair and reasonable contract and to comply with applicable laws, or may make a determination to pursue their requirements through competitive sealed bids or proposals should negotiations fail to result in a fair and reasonable contract.
- 3 Purchases orders and contracts initiated under this section shall contain all relevant information, such as uniform terms and conditions, special terms and conditions, scopes of work and/or specifications, insurance requirements, products, materials, and/or services covered, delivery schedules, firm fixed pricing (purchase order terms and conditions may be sufficient for small dollar purchases), price analysis/determinations performed and shall cite A.R.S. §41-2636 as the authorizing statute.
- 4 State Governmental Units and Local Public Procurement Units may also use purchasing cards as a method of making payments for 2636 program purchases.
- 5 AIB, C-NADI & ACI may advertise their products, materials and services through catalogs, direct contact, direct mail promotion, electronic communication or other means. 2636 program provider information will be posted on the State's SPIRIT web-site (with links to participant web-sites).

#### **IX. Program Reports:**

AIB, C-NADI & ACI shall be responsible for reporting customer use and submitting participant usage data to the 2636 Committee Chair on a quarterly basis.

#### **X. Records:**

For purchases made under the 2636 Procurement Program, State Governmental Units and Local Public Procurement Units shall maintain adequate records to facilitate auditing and to ensure compliance with the Arizona Procurement Code. Records shall, at a minimum contain:

- 1 For State SCC 2636 contracts, purchase orders/contract release orders shall cite the applicable contract number(s), materials or services being purchased as well as contract prices;
- 2 For direct purchases of materials or services, purchase orders, contract release orders and contracts A.R.S. §41-2636 (authorizing statute) along with all other relevant information shall be cited.

#### **XI. Dispute Resolution Process:**

Any interested party may dispute 2636 Committee decisions by following the requirements established under A.A.C. R2-7-1009 of the Arizona Procurement Code.

John O. Adler, CPO

  
State Procurement Administrator

December 7, 2005

# Attachment 1

## State Set-Aside "2636" Procurement Program C-NADI Certification Application Non-Profit Agency for Disabled Individuals

Applicants are to complete the following form and provide all requested information for committee review. Completed applications and all related information shall be submitted to Enterprise Procurement Services, 100 North 15<sup>th</sup> Ave. Suite 104, PHX, AZ 85007-3223, attention Set-Aside "2636" committee chairperson. (Please provide 1 original and 6 copies in 3 ring binders for committee distribution)

Applications will be scheduled for committee review and disposition as soon as practical.

Agency Name: _____	Contact Person: _____
Address: _____ _____	Phone No. _____
_____	Fax No. _____
_____	E-Mail. _____
Total Number of Persons Employed: _____	Web-Site (URL): _____
<p><b>The following shall be provided as application attachments (incomplete applications can not be processed):</b></p> <ol style="list-style-type: none"> <li>1. Description of the non-profit activity center (brochure information);</li> <li>2. Evidence of the organizations non-profit status;</li> <li>3. A statement that the business is operated in accordance with A.R.S. 41-2636 (F);</li> <li>4. A statement of Occupational Safety and Health Administration compliance;</li> <li>5. A listing of offered materials, products or services.</li> <li>6. Capabilities (i.e. type and size of contracts the organization may perform)</li> <li>7. Geographic delivery and/or servicing areas (i.e. statewide, by county, city or town)</li> </ol>	
<p align="center"><b>Applicants Signature</b></p> <p>Printed Name: _____</p> <p>Signature: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p align="center"><b>2636 Committee Determination</b></p> <p>Committee Certified: Yes _____ No _____</p> <p>Printed Name: _____ (Chairperson)</p> <p>Signature: _____</p> <p>Date: _____</p>

## Attachment 2

<b>State Set-Aside “2636” Procurement Program</b> <b>Arizona SCC “2636” AIB, C-NADI, ACI Contract Application</b> <b>Applicants are to complete the following form and provide all requested information for committee review. Completed applications and all related information shall be submitted to Enterprise Procurement Services, 100 North 15<sup>th</sup> Ave. Suite 104, PHX, AZ 85007-3223, attention Set-Aside “2636” committee chairperson. (Please provide 1 original and 6 copies in 3 ring binders for committee distribution)</b> Applications will be scheduled for committee review and disposition as soon as practical.	
Agency Name: _____  Address: _____ _____ _____  C-NADI: Yes _____ Date Certified: ____/____/____	Contact Person: _____  Phone No. _____  Fax No. _____  E-Mail. _____  Web-Site (URL): _____
<b>The following shall be provided as application attachments (incomplete applications can not be processed):</b>  1 A description of the specific material or services proposed (i.e. product descriptions, specifications, part numbers and for services, the type and scope of work of the proposed services); 2 Data substantiating that the quality of the material or services being proposed are substantially equivalent to those from the private sector; 3 The pricing being offered; 4 Documentation to substantiate that pricing offered is fair and reasonable (i.e. price comparison data showing pricing offered is reasonably comparable to the price for a substantially similar material or services available from the private sector); 5 Information regarding availability (i.e. delivery and/or service schedules); 6 Proposed geographic coverage and/or service areas (i.e. regional or statewide); 7 Data supporting the applicants ability to meet customer needs (i.e. production or service capacities); and 8 A Statement of understanding that the applicant will comply with the State’s Uniform Terms and Conditions and all Special Terms and Conditions required to create a mutually agreeable and binding contract.	
<b>Applicants Signature</b>  Printed Name: _____  Signature: _____  Title: _____  Date: _____	<b>2636 Committee Determination</b>  Approved as a mandatory contract: Yes ____ No ____  Approved as a non-mandatory contract: Yes ____ No ____  Printed Name: _____ (Chairperson)  Signature: _____  Date: _____